ARC 4308C

NURSING BOARD[655]

Adopted and Filed

Rule making related to advanced registered nurse practitioners

The Nursing Board hereby rescinds Chapter 7, "Advanced Registered Nurse Practitioners," Iowa Administrative Code, and adopts a new Chapter 7 with the same title.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 17A.3 and 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 152.

Purpose and Summary

New Chapter 7 clarifies the definitions contained in the existing chapter, includes new definitions, streamlines the requirements and process for licensure as an advanced registered nurse practitioner (ARNP), clarifies the role and expectation of the ARNP per the Consensus Model and current standards of practice and includes new language on the standards of practice for treating patients and new language on the standards of practice for prescribing and administering opioids and other controlled substances.

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 21, 2018, as **ARC 4132C**.

The Board received a number of comments on this rule making. Seven comments expressed concern that the noticed prescription monitoring program (PMP) rule did not include the statutory exceptions for inpatient hospice care or long-term residential facility patient care. The Board agreed that the exceptions contained within 2018 Iowa Acts, House File 2377, should be in its PMP rule and revised the rule to include those exceptions. One comment requested that the Board include an additional exception for cancer patients. The Board considered this comment and declined to create, at this time, exceptions beyond those contained within 2018 Iowa Acts, House File 2377.

Six comments expressed concern with requiring ARNPs to check the PMP prior to prescribing any controlled substance, as opposed to only checking the PMP prior to prescribing opioids. The Board considered these comments and decided that the Board's PMP rule should require that the PMP be checked only prior to the prescribing of an opioid. The Board found that while checking the PMP prior to prescribing any controlled substance is a good practice and should be encouraged, the Board's current rules should be coextensive with 2018 Iowa Acts, House File 2377. As ARNPs become more accustomed to using the PMP, the Board may again consider requiring that the PMP be checked before the ARNP prescribes any controlled substance. Also, to further clarify the distinction between opioid standards and controlled substances standards, the Board divided noticed rule 655—7.6(152) into two rules: standards of practice for controlled substances (655—7.6(17A,124,147,152,272C) herein) and use of the PMP (655—7.7(124) herein).

The Board received four comments expressing confusion as to the function of the 48-hour window to check the PMP database prior to prescribing an opioid. The Board's noticed subrule 7.6(4) stated "within 48 hours of a prescription being issued," and thus in fact required ARNPs to check the PMP database prior to issuing a prescription. The purpose of the proposed 48-hour window was to ensure that ARNPs were checking the PMP within an appropriate time prior to issuing a prescription and not, for example, checking the PMP six months before issuing a prescription and then asserting compliance. However, the comments revealed that this requirement generated misunderstanding, and the Board decided to remove the 48-hour window requirement.

The Board received two comments expressing concern about the feasibility of obtaining patient histories relating to familial substance abuse or providing ongoing patient education for certain types of patients who may be unable to provide such information or retain the education. The Board considered the comments and revised rule 655—7.6(17A,124,147,152,272C) to permit the ARNP to exercise the ARNP's professional judgment and document the rationale for not performing a personal and family substance abuse risk assessment or not providing ongoing patient education. The Board received several comments noting that patient needs and ARNP practices vary depending on the population and practice. In response, the Board revised rule 655—7.5(17A,147,152) to allow ARNPs to exercise their professional judgment when performing "pertinent" health histories and revised the disciplinary provision in rule 655—7.6(17A,124,147,152,272C) to clarify that the standard of care for opioid dosages is what would be prescribed by a reasonably prudent ARNP in a similar "practice."

The Board received two comments that demonstrated confusion about the continuing education requirements for ARNPs who prescribe opioids. In response, the Board rephrased rule 655—7.6(17A,124,147,152,272C) to clarify when education is required pursuant to 2018 Iowa Acts, House File 2377. The Board received one comment which suggested that the proposed rules were unclear in regard to when a nurse would be required to obtain a Drug Enforcement Administration (DEA) registration. The Board considered this comment and rephrased the noticed subrule, now subrule 7.6(5) herein, to clarify that DEA and Controlled Substances Act (CSA) registration is required by the Board only when it is required by the DEA and the Board of Pharmacy. The Board also revised noticed subrule 7.6(5), now subrule 7.7(4) herein, to clarify that ARNPs must understand the Board of Pharmacy's PMP rules.

The Board received four comments relating to the proposed definition of "collaboration," which differed from the definition in existing Chapter 7. The Board considered the comments and found that the proposed definition could have inadvertently impacted the Board's fluoroscopy rules, and the Board agreed to adopt the original definition instead of the proposed definition. The Board received two comments relating to the proposed definition of "advanced registered nurse practitioner." The proposed definition was an alternative phrasing of the definition contained in Iowa Code chapter 152. However, the Board considered the comments and decided to revise the proposed definition and use the same language contained in Iowa Code section 152.1(1) for clarity. The Board received four comments expressing concern about the omission of the following sentence from the proposed definition of "advanced registered nurse practitioner": "The ARNP may perform selected medically delegated functions when a collaborative practice agreement exists." Neither the Iowa Code nor the Board's existing rules require ARNPs to practice pursuant to a practice agreement. Moreover, this language is outdated and has led to confusion among ARNPs, as an ARNP should not be practicing medicine and must practice within the ARNP's population focus. The Board therefore considered but declined the request to include the sentence. The Board also added a definition of "dispense" to clarify the term of art.

The Board received three comments expressing concern that the rules regarding the use of the ARNP title and abbreviation were omitted from proposed new Chapter 7. Provisions relating to use of the ARNP title and abbreviation already exist in Iowa Code chapters 147 and 152. The Board considered the comments and decided to add the requirements on this topic for clarity. The Board received one comment expressing concern with the inclusion of certification for certified nurse practitioners or certified nurse specialists in at least one of six population foci. The Board considered the comment and found that the rule not only retains the four recognized specialties but also ensures that nurses are practicing within their area of training and competence. Thus, the Board declined to revise the rule in response to the comment. The Board received a comment expressing concern about which procedures govern the denial of an application for an ARNP license. In response, the Board added new subrule 7.3(7) to clarify that rule 655—3.9(17A,272C) governs such denials.

The Board received comments relating to proposed rule 655—7.8(152) regarding supervision of pharmacists engaged in collaborative drug therapy management. The Board considered the comments and has also learned that the Board of Pharmacy has prefiled legislation that could impact the rule. The Board decided to refrain from moving forward with the rule until the legislation is resolved, so

proposed rule 655—7.8(152) has been removed from new Chapter 7. As a consequence of the rule revisions described above, noticed rule 655—7.7(152) is numbered herein as 655—7.8(152).

Adoption of Rule Making

This rule making was adopted by the Board on January 9, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 655—Chapter 15.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on March 20, 2019.

The following rule-making action is adopted:

Rescind 655—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
ADVANCED REGISTERED NURSE PRACTITIONERS

655—7.1(17A,124,147,152) Definitions.

"Advanced registered nurse practitioner" or *"ARNP"* means a person who is currently licensed as a registered nurse under Iowa Code chapter 152 or chapter 152E who is licensed by the board as an advanced registered nurse practitioner.

"Board" as used in this chapter means the Iowa board of nursing.

"Collaboration" is the process whereby an ARNP and physician jointly manage the care of a client.

"Controlled substance" means a drug in Schedules II through V of subchapter II of Iowa Code chapter 124.

"Dispense" means to provide a prescription drug to a patient for self-use outside of the ARNP's practice location. "Dispense" does not include administration.

"National professional certification organization" means the American Academy of Nurse Practitioners, the American Association of Critical Care Nurses, the American Midwifery Certification Board, the American Nurses Credentialing Center, the National Board of Certification and Recertification for Nurse Anesthetists, the National Certification Corporation, and the Pediatric Nursing Certification Board.

"Opioid" means a drug that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain.

"Prescription monitoring program database" or *"PMP database"* means a centralized database of reportable controlled substance prescriptions dispensed to patients and includes data access logs, security tracking information, and records of each individual who requests prescription monitoring program (PMP) information as operated by the board of pharmacy.

655—7.2(152) Requirements for licensure as an ARNP.

7.2(1) *Qualifications.* An applicant for an ARNP license shall meet the following qualifications:

a. Hold an active unrestricted license as a registered nurse in accordance with 655—Chapter 3.

b. Graduation from an accredited graduate or postgraduate advanced practice educational program in one of the following roles, except as provided by subrule 7.2(2):

(1) Certified nurse-midwife.
(2) Certified registered nurse anesthetist.
(3) Certified nurse practitioner.
(4) Clinical nurse specialist.

c. Current certification issued by a national professional certification organization as a certified nurse-midwife or certified registered nurse anesthetist, or as a certified nurse practitioner or clinical nurse specialist in at least one of the following population foci:

(1) Women's health/gender-related.
(2) Family (individual across the lifespan).
(3) Psychiatric mental health.
(4) Adult/gerontology.
(5) Pediatrics.
(6) Neonatal.

7.2(2) *Exception.* An applicant who has completed a formal advanced practice educational program but has not graduated from an accredited graduate or postgraduate advanced practice educational program may be licensed as an ARNP provided that the applicant possesses a current certification from a national professional certification organization as described in paragraph 7.2(1)*"c."* This exception is intended to allow for the grandfathering of ARNPs who completed educational programs before the board required graduation from an accredited graduate or postgraduate advanced practice educational program.

655—7.3(17A,147,152) Application process.

7.3(1) An applicant who wishes to be licensed as an ARNP shall submit the following to the board:

a. An ARNP application for each population focus.

b. A dated copy of the applicant's current advanced level certification issued by the appropriate national professional certification organization.

c. If the applicant is not licensed as a registered nurse in Iowa, verification of an active registered nurse license in another state recognized for licensure in this state pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.

d. A nonrefundable license fee of $81.

7.3(2) The applicant shall request that official transcripts be sent directly to the board from the educational program verifying the coursework, date of completion of the program, and the degree conferred.

7.3(3) The executive director of the board or the executive director's designee shall have the authority to determine if all requirements have been met for licensure of the applicant as an ARNP. If all requirements have been met:

a. The applicant shall be issued a license and a certificate to practice as an ARNP which clearly denotes the applicant's name, title, and population focus, and the expiration date of the license.

b. The expiration date of the ARNP license shall be the same as the expiration date of the applicant's license to practice as a registered nurse.

7.3(4) Licensure completion. An applicant shall complete the ARNP licensure process within 12 months from the start of the application. The board reserves the right to destroy incomplete application materials after 12 months.

7.3(5) Renewal of licensure. An ARNP license may be renewed beginning 60 days prior to the license expiration date and ending 30 days after the expiration date. To renew, a licensee shall submit the information required by subrule 7.3(1). The expiration date assigned to a renewed ARNP license shall be the same as the expiration date of the licensee's license to practice as a registered nurse.

7.3(6) Inactive status. Failure to renew an ARNP license within 30 days after its expiration shall result in an inactive ARNP license.

a. Continuing to work as an ARNP with an inactive ARNP license may result in disciplinary action.

b. To reactivate the license, the licensee must reactivate the underlying license to practice as a registered nurse, if required, and shall complete the license renewal process for the ARNP license.

7.3(7) License denial. Rule 655—3.9(17A,272C) shall govern the denial of an application for an ARNP license.

655—7.4(17A,147,152) Advanced nursing practice.

7.4(1) An ARNP shall practice within the ARNP's respective population foci. An ARNP shall practice in accordance with the applicable standard of care as described in guidelines published by national professional associations or other reputable sources.

7.4(2) An ARNP must maintain current certification with a national professional certification organization at all times while the ARNP license is active.

7.4(3) An ARNP licensed by the board may prescribe, administer, or dispense prescription drugs or devices, including controlled substances, within the ARNP's role and population foci and consistent with applicable state and federal laws.

7.4(4) An ARNP shall have the authority to practice to the full extent of the ARNP's license, education, and experience in the ARNP's respective population foci. An ARNP may:

a. Assess health status;

b. Obtain a relevant health and medical history;

c. Perform physical examinations;

d. Order preventive and diagnostic procedures;

e. Formulate a differential diagnosis;

f. Develop a treatment plan;

g. Develop a patient education plan;

h. Receive third-party reimbursement;

i. Maintain hospital privileges; and

j. Promote health maintenance.

7.4(5) Supervision of fluoroscopy. An ARNP shall be permitted to provide direct supervision in the use of fluoroscopic X-ray equipment, as defined in rule 641—38.2(136C).

a. The ARNP shall provide direct supervision of fluoroscopy pursuant to the following provisions:

(1) Completion of an educational course including content in radiation physics, radiobiology, radiological safety and radiation management applicable to the use of fluoroscopy, and maintenance of documentation verifying successful completion.

(2) Collaboration, as needed, as defined in rule 655—7.1(17A,124,147,152).

(3) Compliance with facility policies and procedures.

b. The ARNP shall complete an annual radiological safety course whose content includes, but is not limited to, the time, dose, distance, shielding and effects of radiation.

c. The ARNP shall maintain documentation of the initial educational course and all annual radiological safety updates.

d. The initial and annual education requirements are subject to audit by the board pursuant to 655—subrule 5.2(10).

7.4(6) Only a person currently licensed as an advanced registered nurse practitioner may use that title and the letters "ARNP" after the person's name. A person currently licensed as an ARNP shall utilize the title "advanced registered nurse practitioner" or the letters "ARNP" after the person's name. Utilization of the title which denotes the ARNP's certification or population foci is at the discretion of the ARNP.

655—7.5(17A,147,152) Standards of practice for treating patients. An ARNP shall follow the standards of practice for the ARNP's respective population foci. Prior to treating a patient, an ARNP shall:

7.5(1) Establish a patient-provider relationship.

7.5(2) Perform and document the following, or have access to the patient's health records where all of the following have been documented by other providers in the care team:

a. Chief complaint;
b. Pertinent health history;
c. A focused assessment;
d. Diagnosis; and
e. Plan of treatment.

655—7.6(17A,124,147,152,272C) Standards of practice for controlled substances. In addition to following the standards of practice for treating a patient described in rule 655—7.5(17A,147,152), an ARNP who prescribes or administers a controlled substance shall practice in accordance with the following:

7.6(1) The health history shall include a personal and family substance abuse risk assessment, or the documented rationale for not performing the assessment.

7.6(2) The health record must include documentation of the presence of one or more recognized indications for the use of a controlled substance.

7.6(3) An ARNP is encouraged to utilize a treatment agreement if continuously prescribing one or more controlled substances.

7.6(4) Throughout the course of the patient's treatment, the ARNP shall provide ongoing education that includes, but is not limited to, the risks of using a controlled substance, and information regarding addiction, physical dependence, substance abuse, and tolerance, or document the rationale for not providing the education.

7.6(5) An ARNP shall maintain an active Drug Enforcement Administration (DEA) registration and an active controlled substances Act (CSA) registration to dispense, prescribe, or administer controlled substances, when required by the DEA and the board of pharmacy.

7.6(6) An ARNP shall not prescribe a controlled substance to the ARNP's self or to a family member unless the prescribing occurs in a clinical setting when an emergency situation arises and when there is no other qualified practitioner available to the patient.

7.6(7) The board may discipline an ARNP for prescribing opioids in dosage amounts that exceed what would be prescribed by a reasonably prudent ARNP in a similar practice.

7.6(8) An ARNP who has prescribed opioids to a patient during the renewal cycle is required to complete a minimum of two contact hours of continuing education regarding the U.S. Centers for Disease Control and Prevention guideline for prescribing opioids for chronic pain, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options, as a condition of license renewal every three years. These hours may count towards the 36 contact hours required for license renewal. The ARNP shall maintain documentation of these hours, which may be subject to audit.

655—7.7(124) Use of the prescription monitoring program.

7.7(1) Prior to the prescribing or dispensing of an opioid by an ARNP, the ARNP or the ARNP's authorized delegate shall query the PMP database and the ARNP shall review the patient's information contained in the PMP database.

7.7(2) This rule does not apply to an ARNP when treating a patient who is receiving inpatient hospice care or long-term residential facility care.

7.7(3) This rule does not apply to an ARNP who issues a medication order for an opioid to be administered to a patient at a hospital or clinic, because the ARNP is neither prescribing nor dispensing in this scenario.

7.7(4) An ARNP is responsible for understanding the board of pharmacy's rules governing use of the prescription monitoring program in 657—Chapter 37.

655—7.8(152) Prescribing epinephrine auto-injectors in the name of a facility.

7.8(1) An ARNP may issue a prescription for one or more epinephrine auto-injectors in the name of a facility as defined in Iowa Code section 135.185(1), a school district, or an accredited nonpublic school.

7.8(2) An ARNP who prescribes epinephrine auto-injectors in the name of an authorized facility as defined in Iowa Code section 135.185(1), a school district, or an accredited nonpublic school, to be maintained for use pursuant to Iowa Code sections 135.185, 260.16 and 260.16A, provided the ARNP has acted reasonably and in good faith, shall not be liable for any injury arising from the provision, administration, or assistance in the administration of an epinephrine auto-injector.

These rules are intended to implement Iowa Code sections 17A.3, 124.551A, 124.552, 147.2, 147.10, 147.11, 147.72, 147.74, 147.76, 147.80, 147.107, 152.1, 152.6, 152.7, and 272C.2C.

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